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REDACTED -- PUBLIC VERSION

The Honorable Sherry R. Fallon  
United States District Court  
for the District of Delaware  
822 North King Street  
Wilmington, DE 19801

Re: *Liqwd, Inc., et al. v. L'Oréal USA, Inc., et al.*,  
C.A. No. 17-14 (JFB)(SRF)

Dear Judge Fallon:

Pursuant to the Court's Oral Order, Plaintiffs Liqwd, Inc. and Olaplex LLC (collectively "Liqwd") respond to the letter L'Oréal filed this afternoon (D.I. 567) purporting to notify the Court about two issues concerning the protective order in this case in advance of tomorrow's discovery dispute hearing, oral argument, and status conference.

The first issue relates to an inadvertent administrative filing mistake. An exhibit (Exhibit 2070 – Defendants' Third Supplemental Objections and Response to Plaintiffs' Second Interrogatory from this case) was accidentally misidentified when it was filed in PGR2018-00025 and therefore briefly made available to the public. Within minutes, however, that error was brought to the PTAB's and L'Oréal's attention *by Liqwd's counsel*. The confidential status of the document was corrected the following business day. In addition, Liqwd's counsel has conducted an extensive and ongoing investigation to identify and remove any copies of Exhibit 2070 from sources accessible by the public. To date, copies of Exhibit 2070 have been located in the possession of three third-party services that maintain docketing information for PTAB proceedings (Docket Navigator, Docket Alarm, and Lex Machina). We have contacted each service and had the document removed from their databases. We are not aware of any copies of Exhibit 2070 in the public domain at this time – nor, apparently, is L'Oréal (*see* D.I. 567 at 1 ("it remains unknown whether the document is publicly available")) – and have been and are actively monitoring the situation.

The second issue relates to a document that Liqwd has never publicly disclosed (LO\_USA00035379). Instead, Liqwd referred to it in a confidential reply brief filed under seal in the Federal Circuit. That use is within this Court's prior authorization to use various documents for parallel PGR proceedings. *See* Nov. 1, 2018 Hr'g Tr. at 4:6-12 and 12:7-14:3; D.I. 453,

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Liqwd's Oct. 29, 2018 Letter at 1. The Federal Circuit appeal is from another PTAB proceeding PGR2017-00012, an earlier proceeding regarding the '419 patent.

L'Oréal's position appears to be that by filing this document in PGR2018-00025, Liqwd somehow forfeited the right granted to use that document in other PTAB proceedings. Again, Liqwd has treated this document with appropriate confidentiality protections in the Federal Circuit by filing it only as part of the confidential brief. There is no risk that the filing will make the document public. Only the lawyers and the court have access to it. Thus, L'Oréal's real concern seems to be with the content of the document and its persuasive value for Liqwd's position, not with whether the document will become public or whether Liqwd has violated any protective order (Liqwd has not).

Counsel for Liqwd will be prepared to answer questions about these issues during tomorrow's conference.

Respectfully,

*/s/ Jeremy A. Tigan*

Jeremy A. Tigan (#5239)

JAT/jl

cc: Clerk of the Court (by hand delivery)  
All Counsel of Record (by CM/ECF and email)